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KWS
9-17-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

5 **In re Application of:** Peppel et al.
 Serial Number: 09/735,586
 Filed: 12/12/00
 Title: Electronic Trading Card

Docket No.: OOMP0001C
Group Art Unit: 2132
Examiner: Lanier, Benjamin

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September 11, 2003

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Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Preliminary Amendment

Sir:

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Applicant responds to the Advisory Action mailed 25 August 2003 as follows:

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1. Applicant notes that, as of the Office Action mailed 15 May 2003, issues were deemed to exist with regard to independent Claims 9, 13, 33, 34, and 37 and those claims dependent thereon in view of *Durst* as well as with regard to Claims 1 and 9 based on the double-patenting rejection in view of US Patent Number 6,200,216. In Applicant's response dated 12 August 2003 Applicant amended independent Claims 9, 13, 33, 34, and 37 and submitted a Terminal Disclaimer in connection with Claims 1 and 9 therein with regard to US Patent Number 6,200,216.

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2. Applicant notes from the Advisory Action that the Examiner has maintained his rejection with regard to Claims 13, 33, 34, and 37 in so far as Applicant's amendment with regard to "exchanging one or more computer code segments" raises new issues, and further that Applicant's argument with regard to this amendment has not persuaded the Examiner that the *Durst* reference is overcome.

3. Applicant notes that the Examiner has accepted the Applicant's amendment of Claim 9, indicating that it would overcome the rejection in view of *Durst* if submitted separately. Applicant does so with this submission.

5 4. Thus recapping the current status of the Application, Claims 1-12 and 25-32 are now in allowable condition. Claims 13-24 and 33-37 have been cancelled without prejudice and by doing so, Applicant does not concede the propriety of the Examiner's rejection thereof. Such claims have been cancelled merely for purposes of convenience and Applicant reserves its right to pursue claims of equal or broader scope at a later date.

10 The Examiner is encouraged to contact the Applicant's attorney, Michael A. Glenn at (650) 474-8400 should the Examiner deem it helpful toward including the prosecution of this application.

15 Respectfully Submitted,

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Michael A. Glenn
Reg. No. 30,176

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